IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.5403 OF 2006

Kolhapur Jilha Khadi Va
Gramoudyog Sangh, Kolhapur
'E' 13. 714, 'B' Raviwar
Peth, Kolhapur, through
its President
Shri Maruti Dnyanu Chougule,
Age: 55 years, Occ: Service,
R/o At Post Rukadi,
Tal: Hatkanagale,
District: Kolhapur. .... Petitioner

- Versus -

1. Shri B.R. Suryawanshi,
r/o Tilak Road Shukrawar
Peth, Pune, through its
Power of Attorney holder
Shri Balasaheb Rangrao
Patil, r/o 240/7 'A' Ward,
Shivaji Peth, Kolhapur.

2. Shri Keshav Martand Yadav,
r/o 2493 'D' Kolhapur. .... Respondents

Sarvasri A.C. Singh with S.D. Patil and
Sameer Tambekar for the Petitioner.

Shri Amit B. Borkar for the Respondents.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: OCTOBER 11, 2006

ORAL JUDGMENT:

1. Heard. Rule. By consent, rule made returnable forthwith.

2. The petitioner challenges the order dated 14-7-2005 as well as the order dated 31-3-2006 passed by the Joint

Charity Commissioner in relation to the applications filed by the respondents herein for their intervention in the proceedings before the concerned authority in the application filed by the petitioner.

3. The grievance of the petitioner is that the learned Joint Charity Commissioner allowed the applications filed by the respondents for their intervention without application of mind and in a most arbitrary manner, contrary to the materials on record and in contravention of the provisions of law and, therefore, the orders passed in exercise of the powers under Section 73-A r/w Section 2(10) of the Bombay Public Trusts Act, 1950 are bad in law as well as the order passed in the review petition.

4. Upon hearing the learned Advocates for the parties and on perusal of the records, it is seen that the applications filed by the respondents for intervention were allowed solely on the ground that they are the members of the Trust. Perusal of the applications filed by the respondents apparently disclose that in fact they are not the members of the Trust. Obviously, the findings arrived at by the Joint Charity Commissioner in favour of the respondents that their intervention is necessary on account of they being members of the Trust is totally contrary to the materials on record and the

case pleaded by the respondents. As rightly submitted by the learned Advocate for the petitioner, the contents of para 7 of both the orders, one in the case of the respondent No.1 and another in the case of the respondent No.2 apparently disclose that their applications were allowed solely on the ground that they were members of the Trust when, in fact, perusal of the applications filed by the respondents before the concerned authority disclose that the said finding is totally contrary to the case pleaded by the respondents as the applications evidently disclose the respondents are not the members of the Trust.

5. Perusal of the order passed in the review petition undoubtedly discloses the observation that the applications were allowed not only because the respondents are members of the Trust but also on other grounds. However, the reviewing authority has avoided to disclose what are those other grounds on which the applications were allowed. Mere statement in the impugned orders that the applications have been allowed on other grounds cannot at all be a justification to review the petition filed by the petitioner. In order to arrive at the finding that the applications filed by the respondents were allowed on other grounds, it was necessary for the reviewing authority to refer to those grounds in the impugned order. In fact, perusal of the

orders passed by the concerned authority while allowing the applications, as already observed above, apparently disclose that the applications by the respondents were allowed solely in most mechanical manner on the assumption that they were the members of the Trust. The reviewing authority having totally ignored the same, it has clearly acted illegally in rejecting the review petition.

6. For the reasons stated above, therefore, the impugned orders passed by the lower authority in relation to the respondents herein cannot be sustained and are liable to be set aside and the applications filed by the respondents are liable to be dismissed. Accordingly, the petition succeeds; the impugned orders are hereby quashed and set aside and the rule is made absolute in terms of the prayer clause 16(b) with no order as to costs.

(R.M.S. Khandeparkar, J.)

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